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September 3, 2013

Hon. Naomi Reice Buchwald
United States District Judge
U. S. District Court, Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: JP Morgan Chase, N.A. Interpleader Complaint,
13 CV 3302 (NRB)

Dear Judge Buchwald:

We represent defendant-counter-claimant-cross-claimant Rona Maurer, and write in opposition to the request of counsel for Kenneth Garrett, as executor of the estate of Rose Roseman, and Andrea Zauflick for a pre-motion conference as we submit that no motion is warranted. As set forth in Ms. Maurer's answer, counterclaims and cross-claims, there are a number of reasons why decedent's designation of beneficiaries should not be honored. The first and foremost is that it is in violation of an IRA agreement entered into by decedent pursuant to which decedent committed to name Ms. Maurer as the beneficiary of this account. The validity of that agreement (a copy of which is provided herewith) is in issue in the Surrogates Court action, scheduled for trial in December.

If the agreement is upheld, the designation would be invalid (or at worst subject to the imposition of a constructive trust). As such, any decision to distribute funds is premature.

Second, the breach of the IRA agreement by decedent is a counterclaim in the Surrogates action which could give rise to a multimillion dollar judgment against the estate. Pursuant to CPLR 5205, the IRA funds are subject to the claims of decedent's creditors. The IRA funds could not be released until Ms. Maurer's claims are adjudicated and satisfied.

As such, the motion proposed by counsel cannot succeed and will do nothing more than waste the court's time and generate legal fees.

Respectfully,


RICHARD L. HERZFELD